

### **REMARKS**

This Amendment responds to the Office Action mailed August 8, 2008. Claims 58-63, 73, and 74 remain pending in the application and claims 58-60, 63, and 74 stand rejected. Claims 61, 62, and 63 were withdrawn in view of a restriction requirement. Claim 58 has been amended herein. Applicants respectfully request reconsideration in view of the amendment and the following remarks.

#### **Claims Rejected under 35 U.S.C §102**

Claims 58-60, 63, and 74 stand rejected under 35 U.S.C §102(b) as being unpatentable over U.S. Patent No. 5,716,367 to Koike et al. Claim 58 is the only independent claim of this rejected group. Applicants respectfully traverse the rejection of claim 58 because Koike '367 fails to disclose a catheter having a distal catheter portion that is "shaped to correspond to the contour of the gutter of a mitral valve of the heart," as set forth in claim 58. The gutter of the mitral valve of the heart is described in the Application at page 17, line 27 – page 18, line 4. Specifically, the gutter is that portion of the heart within the left ventricle that is between a plane associated with the papillary muscles of the left ventricle and a plane associated with the mitral valve of the heart. (See Application at p. 17, line 27 – p. 18, line 4 and FIG. 6b.)

In contrast, Koike '367 is directed to a catheter assembly wherein a sleeve 12 has a distal portion that is set at a fixed angle of about 30 degrees to facilitate maneuvering the catheter into the heart through the femoral artery. (See Koike '367 at col. 3, line 66 – col. 4, line 3; col. 5, line 66 – col. 6, line 4.) The fixed angle of 30

degrees is not a configuration that corresponds to the gutter of a mitral valve of the heart. In an effort to advance prosecution of this application, claim 58 has been amended to more sharply define the claimed invention. Specifically, claim 58 has been amended to recite:

said distal catheter portion having a shape that corresponds to the contour of the left ventricular wall of the heart, between a plane associated with the papillary muscles of the left ventricle and a plane associated with the mitral valve of the heart, whereby the distal catheter portion is shaped to correspond to the contour of the gutter of the mitral valve.

Support for this amendment can be found with reference to the Application at page 17, line 27, though page 18, line 4. Accordingly, no new matter has been added by this amendment. Applicant asserts that amended claim 58 is in condition for allowance, because Koike '367 fails to disclose a catheter having a distal portion that is shaped as set forth in claim 58 and discussed above. For at least these reasons, Applicants respectfully request that the rejection of claim 58 be withdrawn.

Claims 59, 60, 63, and 74 each depend from claim 58 and are in condition for allowance for at least the same reasons discussed above for claim 58. Applicants further traverse the rejection of claim 63 because the fixed bend angle of Koike '367 is not convertible between a first condition wherein the distal catheter portion has a shape that does not conform to the contour of the gutter of the mitral valve, and a second condition wherein the shape of the distal catheter portion conforms to the contour of the gutter of the mitral valve, as set forth in claim 63. Accordingly, Applicants respectfully request that the rejections of claims 59, 60, 63, and 74 also be withdrawn.

**Conclusion**

In view of the foregoing amendments to the claims and the remarks set forth herein, Applicants believe this case is in condition for allowance and respectfully request early and favorable examination of the pending claims. If the Examiner believes any matter requires further discussion, the Examiner is respectfully asked to telephone the undersigned attorney so that the issue may be promptly resolved. The Examiner's prompt attention to this matter is appreciated.

Applicants do not believe that any fees are due in connection with this communication. However, if any fees are necessary to complete this communication, the Commissioner may consider this to be a request for such and charge any necessary fees to Deposit Account No. 23-3000.

Respectfully submitted,

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